

CHAPTER X

THE MARRIAGE INSTITUTION

Mores lead to institutions. — Aleatory interest in marriage and the function of religion. — Chaldean demonism and marriage. — Hebrew marriage before the exile. — Jewish marriage after the exile. — Marriage in the New Testament. — The merit of celibacy. — Marriage in early Christianity. — Marriage in the Roman law. — Roman "free marriage." — Free marriage. — Transition from Roman to Christian marriage. — Ancient German marriage. — Early mediaeval usage. — The place of religious ceremony. — The mode of expressing consensus. — Marriage at the church door. — Marriage in Germany, twelfth century. — The canon law. — Mediaeval marriage. — Conflict of the mores with the church programme. — Church marriage. — The church elevated the notion of marriage. — The decrees of Trent about marriage. — Puritan marriage.

413. Mores lead to institutions. We have seen in Chapter IX that the sex mores control and fashion all the relations of the sexes to each other. Marriage, under any of its forms (polygamy, polyandry, etc.), is only a crystallization of a set of these mores into an imperfect institution, because the relation of a woman, or of women, to a husband becomes more or less enduring, and so the mores which constitute the relation get a stability and uniformity of coherence which makes a definable whole, covering a great field of human interest and life policy. It is not a complete specimen of an institution (sec. 63). It lacks structure or material element of any kind, but the parties are held to make good the understandings and cooperative acts which the mores prescribe at all the proper conjunctures, and thus there arises a system of acts and behavior such as every institution requires. In civilized society this cluster of mores, constituting a relationship by which needs are satisfied and sentiments are cherished, is given a positive form by legislation, and the rights and duties which grow out of the relationship get

positive definition and adequate guarantees. This case is, therefore, a very favorable one for studying the operation of the mores in the